

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

ELLIS E. SMITH

PLAINTIFF

VERSUS.

CIVIL ACTION NO. 2:06cv13KS-MTP

LLOYD BEASLEY, et al.

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the court pursuant to the Report and Recommendation [#41] of Magistrate Judge Michael T. Parker recommending the dismissal of defendant James Johnson based upon a suggestion of his death filed on February 20, 2008. No objections having been filed as to the Report and Recommendation, and the court, having fully reviewed the same as well as the record in this matter, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

The court further concludes that the Report and Recommendation is an accurate statement of the facts and the correct analysis of the law in all regards. Therefore, the court accepts, approves and adopts the magistrate judges's factual findings and legal conclusions contained in the Report and Recommendation. Accordingly, it is ordered that United States Magistrate Judge Michael T. Parker's Report and Recommendation [#41] is adopted pursuant to 28 U.S.C. § 636(b)(1) as the opinion and order of this court and that Frank Sivori's claims against James Johnson are **dismissed with prejudice**.

SO ORDERED AND ADJUDGED this the 28th day of August, 2008.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE